



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

HD:hd

Docket No: 08172-98

5 June 2000

LCDR [REDACTED] USN

Dear Comm [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

Your request to file in your record the supplemental fitness report for 1 November 1995 to 31 October 1996 was not considered, as you have not exhausted your administrative remedies. The attached advisory opinion from the Navy Personnel Command (NPC) dated 16 April 1999 indicates they did not accept the report for file because it was submitted without the required cover letter from the reporting senior.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 1 June 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the NPC advisory opinion.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the advisory opinion in finding no correction of your fitness report record was warranted. They noted that the reporting senior's letter of 25 March 1998 indicated he had improperly applied the upper limits on "Early Promote" and "Must Promote" promotion recommendations, but did not specify his basis for this conclusion. Since the Board was unable to find any defect in your performance record as it stood before the Fiscal Year 99 and 00 Staff Commander Selection Boards, they had no grounds to remove your failures of selection by those promotion boards. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

8172-98
1610
NPC-311
16 April 1999

**MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS**

Via: NPC/BCNR Coordinator (NPC-00XCB)

Subj: LCDR T. [REDACTED]

Ref: (a) BUPERSINST 1610.10 EVAL Manual

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests the removal of his fitness report for the period 1 November 1995 to 31 October 1996 and replace it with a supplemental report for the same period.

2. Based on our review of the material provided, we find the following:

a. A review of the member's headquarters record revealed the report in question to be on file. It is signed by the member acknowledging the contents of the report and his right to submit a statement. The member chose not to submit a statement.

b. A copy of the supplemental report is included with the member's petition. In accordance with reference (a), Annex P, Paragraph P-4.c., it must have been submitted within two years of the ending date of the report and be accompanied by a cover letter to Naval Personnel Command (NPC) stating the changes and reason for reevaluation. Because the supplemental report was not submitted in accordance with reference (a), we cannot accept the copy included with the member's petition for file.

c. Further review of the member's record revealed a supplemental fitness report letter dated and signed 25 March 1998 by the reporting senior requesting the same information the member requested in his petition. The letter is filed next to the fitness report.

d. The fact that the member perceives the fitness report to be career-damaging and have an adverse effect on the potential for advancement is not sufficient reason for it's removal.

e. The member does not prove the report to be unjust or in error.

3. We recommend the member's record remain unchanged.

[REDACTED]

Head, Performance
Evaluation Branch